

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION

RAYMOND LABRONE McCULLOUGH,

Plaintiff,

VS.

CHIEF BRIAN COCHRAN,

Defendant.

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2:09-CV-0696-KOB-JEO

## MEMORANDUM OF OPINION

The magistrate judge filed a report and recommendation on August 23, 2010, recommending that the defendant's motion for summary judgment be granted and this cause be dismissed with prejudice. The plaintiff filed objections on September 10, 2010.

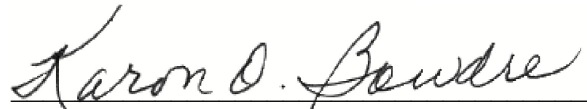
On April 11, 2007, the plaintiff was arrested by officers of the City of Morris, Alabama who seized a significant amount of cash from him at the time of the arrest. Morris Chief of Police Brian Cochran notified the DEA who adopted the case to seize the money pursuant to the Civil Asset Forfeiture Reform Act of 2000, 18 U.S.C.A. §§ 981 and 983. On June 5, 2007, the DEA sent the plaintiff a formal notice of seizure that explained in detail the procedure he should follow to contest the forfeiture. The plaintiff failed to follow the procedure as outlined in the notice and filed this lawsuit almost two years after the deadline for filing a claim with the DEA.

The magistrate judge recommended that the plaintiff's complaint be dismissed because he failed to state a claim for which relief can be granted by this court. In objecting to the report and recommendation the plaintiff continues to object to the constitutionality of the seizure and claims he has been denied due process. The plaintiff was given the process he was due by the DEA, failed

to take advantage of that process, and cannot now raise issues before this court that he failed to raise with the DEA.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation and the objections filed by the plaintiff, the court is of the opinion that the magistrate judge's report is due to be and is hereby ADOPTED and his recommendation is ACCEPTED. The court EXPRESSLY FINDS no genuine issues of material fact and that the defendant is entitled to judgment as a matter of law. Accordingly, defendant's motion for summary judgment is due to be GRANTED and this action is due to be DISMISSED WITH PREJUDICE. A Final Judgment will be entered.

DONE this the 17<sup>th</sup> day of September 2010.

  
KARON OWEN BOWDRE  
UNITED STATES DISTRICT JUDGE